

SERIAL 10107 ROQ

**CONTRACT INDIGENT REPRESENTATION (ADULT CIVIL)
ATTORNEY SERVICES - OPDS**

DATE OF LAST REVISION: March 30, 2011 CONTRACT END DATE: March 31, 2021

CONTRACT PERIOD THROUGH MARCH 31, 2021

TO: All Departments

FROM: Department of Materials Management

SUBJECT: Contract for **CONTRACT INDIGENT REPRESENTATION (ADULT CIVIL)
ATTORNEY SERVICES - OPDS**

Attached to this letter is published an effective purchasing contract for products and/or services to be supplied to Maricopa County activities as awarded by Maricopa County on **March 30, 2011**.

All purchases of products and/or services listed on the attached pages of this letter are to be obtained from the vendor holding the contract. Individuals are responsible to the vendor for purchases made outside of contracts. The contract period is indicated above.

Wes Baysinger, Chief Procurement Officer
Materials Management

AS/mdm
Attach

Copy to: Materials Management
Merri Plummer, Office of Public Defense Services

(Please remove Serial 07019-ROQ and 04013-ROQ from your contract notebooks)

SECTION I INTENT

1. INTRODUCTION

The intent of this Invitation for Solicitation is to establish a listing of qualified contractors to provide indigent representation attorney services for the Office of Public Defense Services. This solicitation effort shall encompass indigent representation specialty services for the following areas of practice:

Adult Mental Health (*current serial number 04013-ROQ*)
Adult Special Advocacy (*current serial number 07019- ROQ*)

This solicitation is intended to replace current contracts for the above noted areas of practice. **Current contractors MUST reapply in order to continue providing services to Maricopa County.** All assignments made to awarded contractors as a result of this solicitation shall be at the compensation schedule(s) found in this solicitation. Any assignment made by OPDS for any of these areas of practice prior to the effective date of this contract shall be at the fees/compensation schedule(s) effective at the time of that assignment.

Multiple awards (listing of qualified vendors) will be made. Maricopa County reserves the right to add providers to this agreement at any time as required to ensure both adequate competition and fulfillment of OPDS requirements. No guarantee is made regarding the frequency of any re-solicitation effort. Re-solicitation efforts may be made for one or more areas of practice at any time at the option of OPDS.

Contractors agree to fully comply with all terms and conditions of this solicitation for inclusion on the list of qualified Maricopa County vendors. The applicant shall register as a vendor with Maricopa County and shall fully agree with the requirements of vendor registration. Additionally, fees and compensation for each area of practice are pre-determined and are not negotiable.

Submission of an application in response to this solicitation shall signify full understanding and agreement with the terms and conditions of the solicitation. Applicants shall clearly designate the area or areas of practice and the preferred location of the service, if applicable, for which they are applying. No guarantee is made regarding the frequency of assignments or volume of work that any contractor may be offered.

At the option of OPDS and Materials Management, this solicitation may be determined to be “open and continuous,” **AFTER** the initial solicitation “opening date and subsequent contract award date”. In the event that OPDS requirements demand additional providers, this solicitation may be converted to “open and continuous” as a re-solicitation effort. Full response information will be provided in the event that determination is made.

2. GENERAL REQUIREMENTS

a. Minimum Qualifications.

Applicant shall be a graduate of a fully accredited law school, shall be member in good standing of the Arizona State Bar Association *and* shall be licensed by the Arizona State Bar Association for a minimum of 2 years *and* shall maintain the same for the duration of any contract award.

b. Applicant by submission of a response/application to this solicitation agrees to fully provide the services defined within at the pre-determined fee/compensation schedule. Compensation as stated within this solicitation is firm and not negotiable. Contract award does not guarantee any number of assignments or any other measure of “work”.

c. Definitive Scope of Work specific to each area of practice may be found in the section(s) following under the designation of that specialty.

d. Contractors are advised that OPDS reserves the right to conduct periodic “performance reviews”. The results of these reviews may be used by OPDS to determine if any cases and, if so, what type of cases may be assigned to the contractor.

SECTION II GENERAL PROVISIONS

1. DEFINITIONS

As used throughout the Contract, these terms shall have the following meanings unless the context requires otherwise:

- A. Board of Supervisors – Maricopa County Board of Supervisors.
- B. Billable Time – time spent for the benefit of the Client which substantially advances the case toward conclusion. Billable time may include court time, legal research, interviews of the Client and witnesses, and other work required to effectively represent the Client. Billable time does not include, for example, the following:
 - 1. non-substantive motions such as motions to continue, motions to withdraw or time spent reviewing a file prior to moving to withdraw;
 - 2. support services or overhead items that are compensated through Contractor’s Contract Rate including such things as secretarial services, typing, leaving messages, transmitting documents by facsimile, mailing letters and photo copying; or
 - 3. activity that does not substantially advance the Client’s case such as waiting for meetings, unanswered telephone calls, leaving a message, or setting up a meeting or conference.
- C. Client – a person who receives services from Contractor pursuant to an assignment by OPDS.
- D. Contract – this document and all attachments hereto.
- E. Contract Administrator – the agent designated by the County Administrative Officer to develop, administer and monitor the contracts for OPDS.
- F. Contractor – the person agreeing to provide services to Maricopa County and the client pursuant to this contract.
- G. County – Maricopa County and is synonymous with OPDS.
- H. Extraordinary compensation – the calculation of additional compensation beyond that provided by contract. Extraordinary compensation must be negotiated between the Contract Administrator and the Contractor, in writing, based on the facts of the individual case and Contractor’s overall compensation under the entire contract.
- I. Fiscal Year – the 12 consecutive months from July 1 to June 30, inclusive.
- J. OCC – the Office of Contract Counsel and it synonymous with OPDS and Maricopa County
- K. OPDS – the Office of Public Defense Services and is synonymous with Maricopa County.
- L. Parties or Party – OPDS, the County and Contractor as the context requires.
- M. Reimbursable Expenses – expenses which are (1) reasonable and necessary; (2) for the legal representation of a Client; and (3) approved in advance by the Contract Administrator. Reimbursable expenses do not include (1) items that are compensated through billable time; (2) secretarial expenses; (3) travel within Maricopa County; (4) expenses for stationery, postage, envelopes, transmission by facsimile, parking and supplies; or (5) other items that are an ordinary cost of doing business.
- N. Representation – the services that Contractor provides to a Client in a specific legal matter.
- O. Trial – participation in a court hearing at which jeopardy or preclusion attaches, witnesses are sworn and testimony is taken. A trial day is 5.0 or more hours of actual trial time; a half-day is less than 5.0 hours.

2. TERM

The contract awarded as a result of this solicitation shall be awarded for a period of ten (10) years from the initial effective or “Commencement Date”.

3. **RIGHT TO EXTEND CONTRACT**

The County may, at its option and with the approval of Contractor, extend the term of the Contract up to a maximum of ten (10) additional one (1) year periods, from the original expiration date. Contractor shall be notified in writing by Materials Management of the County's intention to extend the contract period at least 30 calendar days prior to the expiration of the original contract period. Nothing herein shall be construed to guarantee that the County will subsequently extend or award a Contract.

4. **DEFAULT, SUSPENSION AND TERMINATION**

- A. The Contract Administrator may suspend, modify or terminate the Contract upon Contractor's failure to perform or upon the occurrence of an event that may cause or result in Contractor's failure to perform any requirement of the Contract. Failure of performance shall include failure by Contractor to fulfill the reporting requirements of the Contract. Additionally, Contractor's contract may be terminated due to economic events that may have an adverse effect on the Office of Public Defense Services' budget or a material change in circumstances including, but not limited to, reduction in the number of cases to be assigned at a given location of the Maricopa County Superior Court or any of its lower courts.
- B. The County may terminate the Contract as follows:
 - 1. No Cause: Upon thirty (30) days written notice to Contractor.
 - 2. For Cause: Immediately upon written notice to Contractor. Contractor may terminate this contract upon 30 days written notice to the Contract Administrator. Contractor's termination of a contract(s) does not terminate Contractor's duty to continue representing those cases/persons assigned to Contractor prior to the effective date of termination. See paragraph 6(D) below.
- C. Contractor may terminate this contract upon 30 days written notice to the Contract Administrator. Contractor's termination of a contract(s) does not terminate Contractor's duty to continue representing those cases/persons assigned to Contractor prior to the effective date of termination. See paragraph 6(D) below.

5. **NON-EXCLUSIVE STATUS**

OPDS may contract for the same or similar professional services through persons other than Contractor. This provision applies to OPDS only and does not confer upon any Contractor permission to substitute performance in any way without the express written consent of OPDS.

6. **CONTRACTOR'S RESPONSIBILITIES**

- A. Effective Representation. Contractor shall effectively represent the Client including, but not limited to:
 - 1. contacting and conferring with the Client concerning the representation within a maximum of 48 hours of Contractor's notice of appointment;
 - 2. maintaining reasonable contact with the Client until the representation is terminated;
 - 3. using reasonable diligence in notifying the Client of necessary court appearances including any court action that arises out of the Client's non-appearance;
 - 4. conducting such interviews and investigation as are appropriate;
 - 5. appearing in court on time at whatever time the court designates.
- B. Accept Assignments. Contractor shall accept all assignments made by the Contract Administrator unless Contractor is not ethically permitted to accept the Representation pursuant to Rules of Professional Conduct.
- C. Replacement Representation. In the event Contractor becomes unable to complete an assignment and is allowed to withdraw, Contractor immediately shall report the circumstances to OPDS so that OPDS may appoint replacement counsel. OPDS may require Contractor to account for the time

Contractor has actually expended and to return the payment for the representation where appropriate.

- D. Continuing Representation. Contractor has a continuing duty to represent the Client until the court has terminated the representation. Termination of the contract by either party does not terminate the Contractor's duty to provide services in those cases assigned prior to the effective date of the termination.
- E. Removal for Failure of Performance. In the event a Court removes Contractor from representation due to any failure of performance relating to the representation, Contractor shall reimburse the County for any payment made to Contractor relating to the representation and provide a written explanation of the failure of performance.
- F. Determination of Indigence. Contractor shall notify the court and request a re-determination of the Client's indigence if reasonable grounds exist to believe that a Client is not indigent. In the event the court permits Contractor to withdraw from the representation, Contractor may not represent the Client for a fee arising out of that representation without prior written approval of the Contract Administrator. In the event the court permits Contractor to withdraw from the representation, Contractor shall notify OPDS of the determination that the client is not indigent.
- G. No Additional Compensation. Contractor may not solicit or accept private or additional compensation of any kind, including attorney's fees, in any matter that relates to or arises out of a pending assignment or representation other than compensation as specified in the Contract unless approved in writing by the Contract Administrator.
- H. Records and Reports. Contractor shall create and keep detailed and accurate case logs, final disposition records and time sheets relating to the representation. Contractor will periodically report on a timely basis data and statistics to the Contract Administrator in the manner prescribed by OPDS. Failure to submit case logs, final disposition records and time sheets in the time and manner specified by OPDS may result in withholding compensation until the contractor is in compliance. Contractor shall make available for inspection and copying by the County all records and accounts relating to the work performed or the services provided under the Contract except any document that is privileged as an attorney-client communication. Contractor shall safeguard confidential and privileged information in accordance with all applicable laws, rules, and regulations, as provided elsewhere in the contract.
- I. Cooperation. Contractor shall assist the County in monitoring Contractor's performance of the Contract. Contractor shall cooperate with other OPDS Contractors and staff and shall carefully plan in order to perform duties under this contract timely and effectively. Contractor shall not commit or permit any act that will interfere with the performance of work by the Contract Administrator, any other Contract Attorney or their staffs. Contractor shall notify OPDS if any non-contract counsel enters an appearance on behalf of a criminal defendant on a Knapp v. Hardy or other basis.
- J. Substitute Performance. This is a personal services contract between Contractor and the County. Contractor may, on occasion, allow substitute counsel to appear in court on behalf of the contractor. The substitute counsel must be an attorney who holds a contract with OPDS similar to the contractor's contract. If the substitute counsel represents another party in the case, the contractor shall not be paid for the appearance. Any other substitute counsel must be approved in advance by the contract administrator. Notwithstanding the foregoing, the Contractor shall remain primarily responsible for the performance of the contract.
- K. Requests for Expenditures. Contractor shall submit for approval by the Contract Administrator all requests for payment of expert witness fees, travel expenses, publication of legal notices, investigators, mitigation specialists (in capital cases only), service of process, court transcript fees and other reasonable and necessary expenditures. Contractor may not incur any expense for the account of the County without prior approval of the Contract Administrator. Failure to obtain prior approval may result in non-payment for the expenditure and the debt shall become the personal responsibility of the Contractor. A copy of the approval must be given to the approved vendor for its billing purposes prior to the commencement of their work. If an approved vendor exceeds the OPDS approved amount for the expenditure, OPDS is not obligated to pay any such overage and it becomes the personal responsibility of the Contractor. When billing for reimbursement, receipts for all expenses must be included. All expenses must be approved by OPDS prior to being incurred. Bills for expenses incurred prior to approval by OPDS may not be honored or ratified.

OPDS will not reimburse Contractor for office supplies, secretarial or other staff services, transcripts of witness interviews or any other type of expense that involves the general cost of doing business including, but not limited to, long- distance telephone calls, unless approved in advance by the Contract Administrator as an extraordinary expense.

- L. Investigators. Contractor shall submit for approval by the Contract Administrator any request for appointment of an investigator. OPDS will appoint an investigator from a group of contracted investigators and specify a maximum number of billable hours to be expended by the investigator on the case. If the nominated investigator is available to perform the requested work in a timely manner, OPDS will assign the investigator to the case. Contractor will be responsible for reviewing and certifying the investigator's billings prior to payment by OPDS.
- Conducting witness interviews arranged by the prosecution is not the responsibility of the investigator. Conducting these interviews is the responsibility of the assigned lawyer unless the lawyer cannot be present due to illness or other unforeseen emergency. Then, and only then, will investigators be permitted to bill for the time spent conducting this type of interview.
- M. Mitigation Specialists. In capital cases only, Contractors may submit for preliminary approval by the Contract Administrator any request for appointment of a mitigation specialist. If the nominated mitigation specialist appears to be available to perform the requested work in a timely manner, OPDS will assign the mitigation specialist to the case. Failure to obtain prior approval for the work of a mitigation specialist will result in non-payment and the debt shall become the personal responsibility of the Contractor.
- N. Appointment of Interpreters. Interpreters from Maricopa County's Office of Court Interpreters shall be used for non-English-speaking clients as necessary for all court proceedings and out-of-court matters.
- O. Requests for Court Authorization. Any request made of any Court for any order directing any action or payment by OPDS or Maricopa County must be served upon the Contract Administrator in compliance with the Rules of Civil Procedure regarding service and giving notice of motions.
- P. Compliance with Law. Contractor will comply with all laws, including rules and regulations of all governmental accrediting and regulatory authorities, including the State of Arizona, relating to the licensure and regulation of attorneys. In the event the Contractor is suspended by the Arizona State Bar, on an interim or other basis, Contractor must immediately notify OPDS of this suspension so that appointment of cases may be stopped. Failure to comply with such notice will result in termination of Contractor's contract(s).
- Q. Technological Equipment. Contractor must possess the following equipment to meet the needs of OPDS appointment protocol:
1. Desktop or laptop computer,
 2. Microsoft Office Suite Software and Adobe Reader, and other software as might be needed to allow contractor to conduct business electronically with OPDS,
 3. E-mail address; and
 4. Pager and/or cell phone.
- R. Court Orders for additional compensation. In the event that a Contractor files a motion with any Court for additional compensation or any expenditure in addition to that provided for under the terms of the contract, Contractor must timely serve a copy of the motion upon OPDS. Failure to give OPDS notice of a motion for additional compensation or expenditure on a timely basis will result in either suspension or termination of the contract.
- S. Monthly Case Logs. All case logs must be returned via e-mail to OPDS by the date designated by OPDS. This includes all changes to case dispositions and hours-to-date. Failure to submit case logs by the designated date may result in the withholding of Contractor's monthly contract payment or other payments made by the department on a case-by-case basis until such documentation is provided.
- T. Reporting and Billing periods. Any claim for services must be submitted within 6 months of the service.

- U. Attorney Complaints. Any complaint made about a Contractor will be forwarded to Contractor with a request for a response to the complaint. The Contractor must respond to the complaint in writing within 10 days and submit a copy of Contractor's response to OPDS.

7. **AVAILABILITY OF FUNDS**

Contractor and the County acknowledge that the continuation of any contract after the close of the County's fiscal year, (on June 30 of each year), is contingent upon the approval of a County budget that identifies such contract as an authorized expenditure. The County does not represent that any budget item will be actually adopted. The approval of such expenditures is the exclusive province of the Maricopa County Board of Supervisors at the time of the adoption of the budget.

8. **INDEPENDENT CONTRACTOR**

- A. Contractor's relationship to the County is that of an independent Contractor and not as an employee.
- B. This contract does not constitute, create, give rise to or otherwise recognize a joint venture, partnership, or employment relationship. The rights and obligations of the Parties shall be only those expressly set forth in the Contract.
- C. No persons or services utilized by Contractor in the performance of obligations under the Contract are considered to be County employees, and no rights of County civil service, retirement or personnel rules accrue to such persons. Contractor shall have complete responsibility for all salaries, wages, bonuses, retirement withholdings, worker's compensation, and other employee benefits and all taxes and premiums relating to such persons, and shall defend, indemnify and hold the County harmless for any and all claims, suits, liability and damages which the County may incur because of Contractor's failure to pay such taxes or obligations.

9. **RIGHTS IN DATA**

The County shall have the use of data and reports resulting from the Contract without cost or other restriction. The County shall have complete discretion to create or prepare reports or compilations of data relating to the Contract. The data and reports or compilations of data are public records under Arizona law.

10. **MALPRACTICE INSURANCE**

- A. Contractor will provide to the Contract Administrator a declarations page for a current certificate of insurance for errors and omissions (professional malpractice) coverage in an amount not less than \$250,000/\$500,000. Errors and omissions coverage must remain in force during the entire term of the Contract. In the event Contractor's insurance is terminated or suspended, Contractor shall immediately give written notice to the Contract Administrator. Failure to provide proof of errors and omissions coverage during any period of the contract shall result in its immediate termination for cause. Proof of errors and omissions coverage is due on the first day of the second month of the effective date of the contract.
- B. Contractor shall not be entitled to liability coverage or costs of defense from County or its Self-Insurance Trust from liability or any other claims arising from Contractor's performance under the Contract.
- C. Contractor agrees to defend the County and hold it harmless from any claim that may arise from Contractor's performance of the Contract.

11. **AMENDMENTS**

All amendments to the Contract must be in writing and signed by both parties. Maricopa County Materials Management shall be responsible for approving all amendments for Maricopa County.

12. **STRICT COMPLIANCE**

Acceptance by OPDS of a performance that is not in strict compliance with the terms of the Contract shall not be deemed to be a waiver of any term or an acceptance of anything less than strict compliance with all other terms.

13. **LAWS, RULES AND REGULATIONS**

Performance under the Contract shall be accomplished in conformity with all applicable laws, ordinances, rules, regulations, and zoning restrictions.

14. **NON-DISCRIMINATION AND EQUAL EMPLOYMENT OPPORTUNITY**

Contractor in the performance of the Contract will not discriminate against any person based on race, religion, sex, national origin, or disability.

15. **RETENTION AND ADEQUACY OF RECORDS**

Contractor agrees to retain all books, records, and other documents relevant to the Contract for six (6) years after final payment or until after the resolution of any audit questions, whichever is longer. County auditors and any other persons duly authorized by the County shall have full access to, and the right to examine, copy and make use of all such materials.

OPDS will not pay for costs associated with the storage of any records or files created for, pertaining to, or arising from, this contract.

16. **AUDIT AND AUDIT DISALLOWANCES**

Contractor shall reimburse the County for any service or expenditure that is not sufficiently documented in Contractor's books, records and other documents. In the event the County disallows any payment or request for payment pursuant to this section, OPDS shall notify Contractor in writing of the disallowance and the required course of action relating to the disallowance. OPDS may recover from Contractor any sums due through an action at law or as a setoff or counterclaim.

17. **DISPUTES**

Except as otherwise provided by law, any dispute arising under the Contract shall be processed according to the procedure identified in the relevant section(s) of the Maricopa County Procurement Code.

18. **WAIVER OF CLAIMS**

- A. Contractor accepts the compensation provided in the Contract in lieu of any other claim, demand, request or compensation for the services that Contractor provides pursuant to the Contract.
- B. Contractor's obligations under this section, including the duty of continuing representation, shall survive the termination or expiration of the Contract.
- C. Any dispute concerning the reasonableness or adequacy of the compensation under the Contract shall be resolved by reference to the value of the Contract as a whole and not by reference to a single case or to a portion of the cases that Contractor has performed under the Contract. The value of the Contract as a whole shall be determined by reference to the following factors where applicable:
 - 1. County's average cost per case for all the services provided by Contractor under the Contract compared to the County's average cost per case for the same services performed by the Public Defender, Legal Defender, Legal Advocate, and other Contract Attorneys;
 - 2. County's average cost per hour of services provided by Contractor under the Contract, compared to the County's average cost per hour for the same services performed by the Public Defender, Legal Defender, Legal Advocate and, other Contract Attorneys; and

3. Contractor's average hours per case, compared to the average hours per case for the same services performed by the Public Defender, Legal Defender, Legal Advocate and, other Contract Attorneys.

This section is not severable, in whole or in part, from any other provision of the Contract. In the event any portion of the Contract is found to be invalid or unenforceable, the Contract may be terminated in the sole discretion of the Contract Administrator.

19. **GOVERNING LAWS**

The Contract shall be governed and construed in accordance with the laws of Arizona. Any action to enforce or interpret the Contract shall be litigated in the Maricopa County Superior Court only after the exhaustion of administrative remedies.

20. **FURTHER ASSURANCES AND CORRECTIVE INSTRUMENTS**

The Parties will, from time to time, execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, any corrective instruments as may be reasonably necessary to carry out the intent of the Contract.

21. **COMPLIANCE WITH APPLICABLE LAWS**

The Parties shall use reasonable efforts to comply with all applicable federal and state laws, rules and regulations.

22. **NOTICE**

All notices, demands and other communications to be given or delivered pursuant to the Contract shall be in writing, and shall be deemed delivered upon the following:

- A. personal delivery;
- B. one (1) business day from the transmission by electronic mail or facsimile; or
- C. five (5) business days from deposit in the United States mail, registered mail or certified mail, return receipt requested, with postage prepaid to the Notice Address or to the last known address of the Party who is to be given notice.

23. **RULES OF CONSTRUCTION**

- A. **Incorporation of Definitions, Recitals and Exhibits.** The Parties acknowledge the accuracy of the definitions and recitals set forth in the Contract. All exhibits to the Contract are incorporated into the Contract as if set out verbatim.
- B. **Merger.** All prior and contemporaneous contracts, agreements, statements and understandings with respect to the subject matter of the Contract, if any, among the Parties, or their agents, are merged into the Contract, and the Contract shall constitute the entire agreement among the Parties.
- C. **Successors.** The Contract shall be binding upon and inure to the benefit of, and shall be enforceable by, the successors, assignees and transferees of the Parties.
- D. **Third Party Beneficiaries; No Rights Conferred on Others.** Any person who is entitled to indemnity 1.) by the terms of the Contract or 2.) by operation of law, is a third party beneficiary of the Contract to the extent only that such status is necessary to fulfill or enforce the indemnification.
- E. **Severability; Blue Pencil.** Each provision of the Contract shall be construed to preserve its validity and enforceability to the extent possible. If any provision of the Contract is declared void, invalid or unenforceable, the Party who would have enforced the provision may elect whether the provision shall be 1.) modified to the extent necessary to make it valid and enforceable or 2.) excluded from the Contract.

- F. Remedies Cumulative. Any remedy in the Contract is cumulative and is not exclusive of any other remedy, and does it limit any other legal or equitable remedy that may be available to any Party.

24. **MISCELLANEOUS**

- A. Process Server. All expenditures for service of process must be approved by OPDS prior to incurring any such expense. In the event that Contractor does not request and receive OPDS's approval before incurring such an expense, Contractor may be personally responsible for payment of the process server's service invoice. Contractor will use only a process server approved by OPDS.
- B. Court Reporters. Only appellate and post-conviction relief transcripts are paid directly by OPDS. Any other use of court reporters or transcriptionists must be approved in advance by way of a Request for Expenditure of Funds. It is the Contractor's responsibility to deliver the approval to the appropriate, approved vendor. If transcripts are requested during a trial (to impeach a witness, etc.), the court reporter should be informed that the request is for a transcript of the testimony only and that OPDS will pay \$2.50 per page for the original only and an additional \$0.30 per page for one copy.
- If a motion for a new trial is granted, the County Attorney and all defense counsel should share the cost of the transcript of the original trial. OPDS encourages you to bring this provision to the court's attention should the parties disagree about sharing the costs. RUSH (delivery within 5 days) and EXPEDITED (delivery within 10 days) transcription requests are strongly discouraged and likely to be rejected absent unforeseen exigent circumstances. OPDS requires that Contractor justify such requests with an explanation as to why additional expense was unavoidable. If the necessity for rush or expedited charges is the result of delay on Contractors part, Contractor will be required to pay any charges beyond the reporter's standard page rate.
- C. Audio and Video Tape Transcription. Transcriptions of tape recorded interviews must be approved in advance. The transcription will be done either in-house or by a vendor approved by OPDS. It is the responsibility of each Contractor to make the request for approval and to deliver the tapes in time to take advantage of the Regular delivery rate of 20 calendar days. The Expedited delivery rate of 10 calendar days and the Rush delivery rate of 1 day will not be approved absent extraordinary circumstances.
- D. Travel. All travel for contractors, witnesses or expert witnesses must be pre-approved and scheduled through OPDS. If a car rental is necessary, OPDS will assist contractor to make these arrangements.
- E. Identification Badges. Identification badges are available to Contract Counsel at no charge. Please contact OPDS at (602) 506-7228 to obtain an identification badge.
- F. Change of Address/Firm. Contractor must advise OPDS promptly in writing of any changes to telephone numbers, e-mail addresses and business addresses. If Contractor's business changes its name, this change will modify the contract Contractor has with the Board of Supervisors. OPDS must be notified in writing.
- G. Weapons policy. No weapons, loaded or unloaded, props or real, are to be brought into the courthouse buildings. There are security lockers for storage of these items in the court buildings. If you have questions regarding this policy, call Court Administration at (602) 506-3070.
- H. Designation of Contract and Location. The contract applications include a cover sheet for applicants to rank their preferences for each of the contract categories and locations. Applicants may apply for more than one category of contract and more than one location, but no applicant is guaranteed an award of any, one, or multiple contract categories or a preferred location. If an applicant does not wish to be considered for one or more categories of the contract, the applicant shall clearly designate that category or those categories.
- I. Adult and Juvenile Contracts. Contractors shall not be awarded both adult and juvenile contracts with the exception of the appeals contracts. Adult Civil Contracts may be awarded with either adult or juvenile contracts.

J. Appointments.

1. Bench Appointments: Any and all appointments made from the bench without the concurrence of OPDS may result in non-payment for the case.
2. Non-contract appointments: Appointments made, without OPDS concurrence, to counsel who have not been awarded the appropriate contract by the Maricopa County Board of Supervisors may result in non-payment for the case.

K. Billing for Time.

1. All Contractor invoices submitted for payment must contain an itemized statement of hours describing in detail in chronological order the following:

<u>Date</u>	<u>Description of Event</u>	<u>Time (in tenths of an hour)</u>
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2. This is a contract between Maricopa County and Contractor. Time for the services of secretaries, paralegals, legal assistants, caseworkers, or any other non-contract person will not be considered when considering hours worked by a Contractor on a case.

L. Office of Public Defense Services' Policies and Procedures. Throughout the contract period, OPDS reserves the right to implement new administrative policies and procedures in response to the demands of the Superior Court, its lower courts, the Materials Management Department of Maricopa County, the Department of Finance of Maricopa County, and the Board of Supervisors of Maricopa County.

25. **VERIFICATION REGARDING COMPLIANCE WITH ARIZONA REVISED STATUTES §41-4401 AND FEDERAL IMMIGRATION LAWS AND REGULATIONS**

- A. By entering into the Contract, the Contractor warrants compliance with the Immigration and Nationality Act (INA using e-verify) and all other federal immigration laws and regulations related to the immigration status of its employees and A.R.S. §23-214(A). The contractor shall obtain statements from its subcontractors certifying compliance and shall furnish the statements to the Procurement Officer upon request. These warranties shall remain in effect through the term of the Contract. The Contractor and its subcontractors shall also maintain Employment Eligibility Verification forms (I-9) as required by the Immigration Reform and Control Act of 1986, as amended from time to time, for all employees performing work under the Contract and verify employee compliance using the E-verify system and shall keep a record of the verification for the duration of the employee's employment or at least three years, whichever is longer. I-9 forms are available for download at USCIS.GOV.
- B. The County retains the legal right to inspect contractor and subcontractor employee documents performing work under this Contract to verify compliance with paragraph 25(A) of this Section. Contractor and subcontractor shall be given reasonable notice of the County's intent to inspect and shall make the documents available at the time and date specified. Should the County suspect or find that the Contractor or any of its subcontractors are not in compliance, the County will consider this a material breach of the contract and may pursue any and all remedies allowed by law, including, but not limited to: suspension of work, termination of the Contract for default, and suspension and/or department of the Contractor. All costs necessary to verify compliance are the responsibility of the Contractor.

26. **VERIFICATION REGARDING COMPLIANCE WITH ARIZONA REVISED STATUTES §§35-391.06 AND 35-393.06 BUSINESS RELATIONS WITH SUDAN AND IRAN**

- A. By entering into the Contract, the Contractor certifies it does not have scrutinized business operations in Sudan or Iran. The contractor shall obtain statements from its subcontractors certifying compliance and shall furnish the statements to the Procurement Officer upon request. These warranties shall remain in effect through the term of the Contract.

- B. The County may request verification of compliance for any contractor or subcontractor performing work under the Contract. Should the County suspect or find that the Contractor or any of its subcontractors are not in compliance, the County may pursue any and all remedies allowed by law, including, but not limited to: suspension of work, termination of the Contract for default, and suspension and/or department of the Contractor. All costs necessary to verify compliance are the responsibility of the Contractor.

27. CONTRACTOR LICENSE REQUIREMENT

- A. The Respondent shall procure all permits, insurance, licenses and pay the charges and fees necessary and incidental to the lawful conduct of his/her business, and as necessary complete any required certification requirements, required by any and all governmental or non-governmental entities as mandated to maintain compliance with and in good standing for all permits and/or licenses. The Respondent shall keep fully informed of existing and future trade or industry requirements, Federal, State and Local laws, ordinances, and regulations which in any manner affect the fulfillment of a Contract and shall comply with the same. Contractor shall immediately notify both Materials Management and the using agency of any and all changes concerning permits, insurance or licenses.
- B. Respondents furnishing finished products, materials or articles of merchandise that will require installation or attachment as part of the Contract, shall possess any licenses required. A Respondent is not relieved of its obligation to possess the required licenses by subcontracting of the labor portion of the Contract. Respondents are advised to contact the Arizona Registrar of Contractors, Chief of Licensing, at (602) 542-1502 to ascertain licensing requirements for a particular contract. Respondents shall identify which license(s), if any, the Registrar of Contractors requires for performance of the Contract.

**SECTION III
WORK STATEMENT**

1. EFFECT

This Work Statement shall control should there be any conflict with the General Provisions or Consideration sections of this contract.

2. DUTIES

The contractor shall provide legal services as assigned in the following proceedings as determined by the type of areas in which the contractor and Maricopa County agree and for which the contractor is deemed, by Maricopa County, to be qualified:

MENTAL HEALTH

- Counsel for persons in mental health commitment proceedings.

GUARDIAN *ad LITEM* in the following proceedings:

- Family Court
- Criminal
- Mental health
- Civil

3. CONTRACTOR WITHDRAWAL FROM CASE

- MENTAL HEALTH – Contractor shall represent the client until relieved by the court. In Title 36 Guardianships, the contractor shall remain counsel of record for purposes of the Annual Renewal of Guardianships.
- GUARDIAN *ad LITEM* – Contractor shall represent the client until relieved by the court

4. TERMINATION OF APPOINTMENT

The duty to represent the client pursuant to this contract continues until terminated by the court. In some cases the representation shall continue beyond the expiration of the contract. The county shall compensate the contractor for services rendered after the termination of the contract. In the event contractor is allowed to terminate the representation of the client before the matter is concluded and substitute counsel must be assigned by the County, contractor shall be responsible for any additional costs associated with the substitution.

5. EXTRAORDINARY CASES

Contractor may petition the Contract Administrator for additional compensation for any assignment that requires Contractor to expend an extraordinary amount of time. Additional compensation must be requested in writing and thereafter negotiated between the Contract Administrator and the Contractor. Any request for additional compensation must include a detailed billing statement of the time spent actively working on the case.

6. DE MINIMUS REPRESENTATION

The contractor shall not be paid for cases assigned in which representation is terminated before any significant amount of work is completed. If the contractor has received payment for such a case, that payment shall be deducted from future payments due the contractor for other cases or the contractor shall reimburse OPDS for the amount of the case payment.

7. NOTICE OF APPEAL

Contractor shall notify OPDS of contractor's intent to file a notice of appeal. OPDS may, in its discretion, assign different appellate counsel or, at the request of the contractor, allow the contractor to represent the client for the appeal.

SECTION IV CONSIDERATION

1. COMPENSATION

The following is the schedule of payments for each of the areas of practice and the cases within those areas of practice:

Mental Health

\$70 an hour up to \$2400

Adult Special Advocacy

GAL/BIA in Family Court	\$2,000
GAL in Criminal Case	\$250
GAL in Civil Case	\$250
Civil Appeal	\$1,000

2. MULTIPLE CASES

If a contractor is assigned multiple cases for the same client, the contractor shall be paid for the case that would result in the highest payment.

3. REMOVAL OF THE CONTRACTOR

In the event that the contractor is removed from a case for failure to perform or inability to perform, the contractor shall reimburse OPDS for the funds that have been paid on the assignment. This reimbursement, at the election of OPDS, may be made by OPDS withholding payments due to the contractor on other cases. Failure to perform includes, but is not limited to, failure to appear for a scheduled court appearance.

4. METHOD OF PAYMENT

Subject to the availability of funds, OPDS will process and remit to the Contractor a warrant for payment each month during the term of the contract. Payment will be based on the number and type of cases assigned to the Contractor during the previous month, less any adjustments.

Any request for compensation in addition to that which is provided in paragraph one of this section shall include a billing statement of all of the hours devoted to the case in question.

5. FAILURE TO PERFORM

While no grounds are necessary to terminate the contract by either party, contractors are advised that failure to perform the duties of the contract is likely to result in termination of the contract. Missing scheduled court appearances or deadlines is, among other things, a failure to perform.

6. ELECTRONIC BILLING

In the event OPDS implements an electronic billing system, continued assignment of cases may be dependant upon the contractor agreeing to the terms established for that billing system.

7. **TAXES AND BENEFITS**

Contractor assumes sole and exclusive responsibility for payment of any federal and state income taxes, federal social security taxes, unemployment insurance benefits, workman's compensation and other mandatory governmental obligation, if any, and any pension or retirement program. Contractor agrees to indemnify and hold the County harmless for any and all liability which the County may incur because of Contractor's failure to pay such taxes or obligation including any liability for such taxes or obligations.

8. **REVIEW OF COMPENSATION SCHEDULE**

OPDS shall review compensation/fees schedule for each legal specialty found in this solicitation, on an annual + basis (anniversary of contract award commencement date). Changes, if any, to the Compensation Schedule are at the sole discretion of OPDS.